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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/511,968	02/23/2000	Jay S. Walker	96-082-C1	3686

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WALKER DIGITAL
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EXAMINER

TRAN, HAI V

ART UNIT

PAPER NUMBER

2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/511,968

Applicant(s)

WALKER ET AL.

Examiner

Hai Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01/23/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-90 is/are pending in the application.
- 4a) Of the above claim(s) 1-85 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 87-90 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 86 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 01/23/2007 have been fully considered but are moot in view of the new ground(s) of rejection.

Election/Restrictions

Newly submitted claim 86 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Newly submitted claim 86 directs to Class 705/26-27 that is a business method for electronic shopping in which a viewer able to interact with operator/system to query/verify the availability of the purchasing of the desired product thereby the operator/system determines to sell to the user the desired product and are not readable on the elected invention because applicant has received an action on the merits for the originally presented invention, now cancelled claims 37-40 and replaced by new claims 87-90 are directed to Class 725/42, 46 and 105 which provide interactive video distribution based on viewing history with upstream communication. This invention has been constructively elected by original presentation for prosecution on the merits.

Accordingly, claim 86 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 87-90 are rejected under 35 U.S.C. 102(e) as being unpatentable by Alexander et al. (US 6177931).

Claim 87, Alexander discloses a method, comprising:

“entering product data related to a product used in an entertainment program”, reads on recording/collecting the viewer’s actions, i.e., skip/change-channel, related to a commercial/advertisement that was displayed on a TV program (Col. 28, lines 30-52);

“wherein the product data includes information identifying how the product was used in a scene of the entertainment program” reads on collected viewer actions, i.e., skip/change-channel, includes information, i.e., title of advertisement, identification of the advertisement, in which the system able to identify to display, as advertisement, based upon the content of the TV program (Col. 33, lines 35-43) ;

“receiving the entered product data” reads on the headend collects the viewer profile (Col. 29, lines 14-20);

“storing the entered product data in a central database” reads on the headend stores the collected viewer profile in a Database for analysis; and accessing from the database information about the product used in the scene of the entertainment program” reads on the headend reads out the collected user profile for analysis and customizing presentation of advertising to viewer (Col. 29, lines 55-67).

Claim 88, Alexander further discloses

“storing the entered product data in a local database” reads on locally collects/records viewer actions and stores at the receiver for future uploading to the headend (Col.29, lines 15-30); and

“remotely transmitting the product data stored in the local database to the central database” reads on uploading to the headend (Col.29, lines 15-30);

claim 89, Alexander further discloses :

“receiving, from a viewer of the entertainment program, a request about the product, the request containing a subset of the product data” reads on the viewer requests addition information about the ads in which the ads includes information, i.e., title of advertisement, identification of the advertisement (Col. 18, lines 57-67) ;

“identifying the product data in the database using the subset of the product data; and sending the identified product data to the viewer” reads on the

contact server locates the corresponding information and presents back to the viewer (Col. 18, lines 57-67).

Claim 90, Alexander further discloses,

“receiving a request from an entertainment program viewer about the product” reads on the user action of selecting the ad for additional information (Col. 18, lines 57-67);

“remotely transmitting a query relating to the request” read on the receiver sends the request , i.e., query, for additional information (Col. 18, lines 57-67) ;
and

“receiving product information about the product identified in the request” reads on the contact server locates the corresponding information and presents back to the viewer (Col. 18, lines 57-67) .

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305.

The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HT:ht
03/02/2007


HAI TRAN
PRIMARY EXAMINER